

# Policy and Procedure for Maintenance, Use and Disclosure of Psychotherapy Notes. 45 CFR 164.508(a)(2), (a)(3)

**PURPOSE:** To establish the policy and procedure on the maintenance, use and disclosure of psychotherapy notes.

**POLICY:**

1. All psychotherapy notes recorded on any medium (paper, electronic), by a mental health professional such as a psychologist or psychiatrist must be kept by the author and filed separately from the rest of the patient's medical record to maintain a higher standard of protection.

Definition:

Psychotherapy notes means process notes (not progress notes) recorded in any medium by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session for his or her use only, and are **separated** from the rest of the patient's medical record.

Exclusions:

Psychotherapy notes do not include:

- Medication prescription and monitoring;
- Counseling session start and stop times;
- The modalities and frequencies of treatment furnished;
- Results of clinical tests; and
- Any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

2. Psychotherapy notes may be used or disclosed following the procedures below.

**PROCEDURES:** The following will be used when using and disclosing psychotherapy notes:

1. When disclosing psychotherapy notes to the patient or to another individual, the "Authorization for Use and Disclosure of Health Information", Form IHS-810, must be dated, signed by the patient, legal guardian if the patient is a minor or incompetent, or the patient's personal representative, and the box for Psychotherapy Notes must be checked. The authorization should not be used in conjunction with other disclosures or uses.
2. An authorization is not needed to use and disclose psychotherapy notes for:
  - use by the originator of the notes for treatment;
  - use or disclosure for mental health training programs under supervision within the IHS facility;
  - use or disclosure by IHS in a legal action or other proceedings brought by the patient, in consultation with Office of the General Counsel; and

- use or disclosure that is required by law, authorized disclosure to a health oversight authority with respect to the oversight of the originator of the psychotherapy notes, or use to report a serious and imminent threat to the health and safety of the patient or a third party;
- disclosure required by the Secretary, DHHS to investigate IHS facility compliance with the HIPAA Privacy Rule;
- disclosures to medical examiners or coroners about deceased patients to determine identity, cause of death, or to perform other duties as authorized by law.